

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BENJAMIN BARRY KRAMER,

Plaintiff,

v.

UNITED STATES OF AMERICA, EDUARDO  
GONZALEZ, and UNKNOWN AGENTS OF THE  
U.S. MARSHALS SERVICE,

Defendants.

Case No. 15-cv-420-JPG

**JUDGMENT**

This matter having come before the Court, the issues having been heard, and the Court having rendered a decision,

IT IS HEREBY ORDERED AND ADJUDGED that the following claims are dismissed with prejudice:

- Count 4: a claim under Federal Rule of Criminal Procedure 41(g) for return of property; and
- Count 6: an equitable claim for return of forfeited property;

IT IS FURTHER ORDERED AND ADJUDGED that the following claims are dismissed without prejudice:

- Counts 1 and 2: claims to enforce or clarify the criminal forfeiture under 21 U.S.C. § 853(p)(2) through an accounting;
- Count 3: a claim under Federal Rule of Criminal Procedure 41(g) for return of property;
- Count 5: an equitable claim for return of forfeited property;
- Counts 7, 8, and 9: claims under the Tucker Act, 28 U.S.C. § 1491(a)(1), for restitution/unjust enrichment, unlawful conversion and implied contract, respectively;
- Count 10: a claim under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971), for an illegal exaction in violation of the Fifth Amendment Takings and Due Process Clauses; and
- Count 11: a claim under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 1346(b)(1), for the wrongful retention of profits by federal agents.

**DATED: September 29, 2020**

**MARGARET M. ROBERTIE, Clerk of Court**

**s/Tina Gray, Deputy Clerk**

**Approved: s/ J. Phil Gilbert**  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**